

# **LYNCHBURG CITY COUNCIL**

## **Agenda Item Summary**

**MEETING DATE:** March 30, 2004, Work Session

**AGENDA ITEM NO.:**

**CONSENT:**

**REGULAR:** X

**CLOSED SESSION:**

**ACTION:** X

**INFORMATION:**

(Confidential)

**ITEM TITLE:** Lease with Griffin Pipe and Proposed Boat Ramp at the Foot of Seventh Street

**RECOMMENDATION:** Direct staff to proceed with plans to reestablish a public boat ramp on City property at the foot of Seventh Street

**SUMMARY:** Council Member Seiffert asked that this matter be placed on Council's work session agenda. An increase in activity on the riverfront has raised an interest in reestablishing a boat ramp on City property at the foot of Seventh Street. The City owns approximately 37,000 square feet surrounding its raw water pump station. Since 1983 the property has been leased to Griffin Pipe for use as a parking lot and storage area. The lease with Griffin Pipe was last renewed in 1993 and a copy of that lease is attached for your information.

The lease with Griffin Pipe establishes a monthly rent of \$500 for use of the property and has no term. The lease does, however, allow either party to terminate upon sixty (60) days written notice. The lease also calls for an annual review of the rent, which to our knowledge has never been done. Finally, the lease reserves to the City "the right to further develop or improve the demised premises for the benefit of the City of Lynchburg as it sees fit." Apparently, the City has the right to reestablish a public boat ramp at the site, however, since that would impact both parking and storage areas utilized by Griffin Pipe, it would be appropriate to advise the business of the City's intent as soon as possible.

**PRIOR ACTION(S):** None

**FISCAL IMPACT:** Undetermined at this time. The boat ramp is currently in place. It is anticipated that improvements necessary to reopen the ramp for public use would include signage, pavement marking, trash receptacles, and possibly fencing and gates. Ongoing costs would include routine maintenance, trash and litter pickup, and police patrols. Staff is working to develop an estimate of both start-up and ongoing costs. A source of funding has not been identified at this time.

**CONTACT(S):** Kay Frazier, 455-5858

**ATTACHMENT(S):** Lease with Griffin Pipe

**REVIEWED BY:** lkp

THIS AGREEMENT OF LEASE, made and dated this 1st day of January, 1993, by and between the CITY OF LYNCHBURG, a municipal corporation of the Commonwealth of Virginia, hereinafter designated as "Lessor", party of the first part, and AMSTED INDUSTRIES INCORPORATED, a Delaware corporation, hereinafter designated as "Lessee", party of the second part;

W I T N E S S E T H :

WHEREAS, the Lessor owns certain property within the city limits of Lynchburg, Virginia, known as the pumping station property, situate at 7th and Adams Streets, and has agreed to lease a portion of the same to the Lessee as provided for herein, and the parties hereto are desirous of entering into this Agreement to establish the terms of the lease of said property.

NOW, THEREFORE THIS LEASE FURTHER WITNESSETH:

That for and in consideration of the mutual covenants and agreements herein contained, the parties do hereby covenant and agree as follows:

1. LEASED PROPERTY.

The Lessor hereby leases and demises to the Lessee, and the Lessee hereby leases and hires from the Lessor, the following described property, to-wit:

That portion of the city-owned pumping house station property situate at 7th and Adams Streets, lying between Adams Street and the James River and containing approximately 37,000 square feet. For a further and more particular description of the demised property, see the attached plat which is hereby made a part of this Agreement, the demised property being outlined in red on said plat.

2. TERMS OF LEASE AND TERMINATION.

This Agreement of Lease shall be effective from the date of this execution and shall continue indefinitely, except that either party may terminate this Agreement of Lease by giving the other party

sixty (60) days' notice in writing of its intention to terminate, whereupon the termination shall be effective at the expiration of the sixty (60) day notice.

3. USE.

The Lessee shall have the right to occupy and use the demised premises solely as a parking lot and/or storage area for the pipe or fittings inventory of Griffin Pipe Products Co., one of the Lessee's subsidiaries. The Lessee's use of the demised property will in no way interfere with the operation, maintenance and repair of the City pumping house. Furthermore, the Lessor reserves the right to further develop or improve the demised premises for the benefit of the City of Lynchburg as it sees fit, regardless of the desires or views of the Lessee and without interference or hindrance from the Lessee. In the event the Lessor decides to develop, improve, repair or maintain the demised premises, the Lessee, at its sole cost and expense and without expense to the Lessor, will relocate any materials or fixtures it may have placed on the premises. The Lessee will not use the demised premises in such a manner as to prevent the Lessor's fire equipment, emergency vehicles and repair vehicles from reaching the James River or the Pump Station. Moreover, the Lessee will make sure that such vehicles have ready access to the existing emergency boat ramp at all times. Access shall also include the launching of bateaux and other boats associated with the annual bateau race and river festival.

4. RENT.

The Lessee shall pay to the Lessor as rent for the demised premises the sum of five hundred dollars (\$500) per month. The first five hundred dollars (\$500) payment shall be made at the time of the execution of this Lease and a like amount shall be paid on the 1st day of each succeeding month thereafter during each term this lease remains in effect. The amount of rent will be reviewed on an annual basis. Any revision will be by mutual consent of both parties.

*Bill annually  
\$6,000*

5. UTILITIES.

The Lessee shall pay for all heating, sewer, water, gas, electricity, telephone and other utilities used in connection with demised premises, including all installation and hookup fees necessary for such utilities. The Lessor shall have the right, without cost to the Lessee, to install and maintain in, on or across the demised premises any sewer, water, gas, electric, steam and telephone lines, electric substations, railroad trackage, street widenings or other installations deemed necessary by the Lessor.

6. MAINTENANCE AND CARE OF PREMISES.

The Lessee has inspected the premises and it is expressly agreed and understood that the Lessee accepts said premises in the physical condition in which the same now are and that the Lessor shall be under no obligation whatsoever to make any repairs, replacements or improvements to said premises during the term of this Lease. The Lessee shall assume all

responsibility for the maintenance and care of the leased premises, and the premises shall be maintained at current standards. Upon termination of this Lease, said premises will be returned to the Lessor clean and in good repair, ordinary wear and tear excepted. If the Lessee desires to make any changes or improvements to the leased premises, the Lessee must first obtain the written approval of the Lessor. Said changes or improvements, if approved by the Lessor, are to be made at the sole expense of the Lessee. The Lessee further agrees to be responsible for any damages which the Lessee or any persons the Lessee permits to be there causes to the demised premises and shall repair all damages that may result to their original condition in a timely manner. The Lessee will maintain the premises in a clean, sanitary and safe condition and will regularly remove all debris, trash and garbage from the premises, all at the Lessee's sole expense and cost.

7. STORAGE OF HAZARDOUS MATERIALS.

Lessee will not be permitted to store any hazardous chemicals or materials on the demised property due to the danger of contamination to the James River and the City water supply, hazardous materials meaning any substance or material that is identified by Federal or State EPA regulations as posing a risk to health, safety or property.

8. DAMAGE OR DESTRUCTION OF PREMISES.

If the premises shall be damaged by fire, acts of God or war, not the fault of the Lessee, the Lessee's

agents, employees, invitees or licensees, so as to make the premises untenable, this lease shall terminate unless the Lessor shall within thirty (30) days after such fire or other acts, notify the Lessee of its intention to restore the premises to a tenable condition.

9. DAMAGE TO TENANT'S PROPERTY.

The Lessor shall not be liable for any damage to or loss of any of the Lessee's property in or on the demised premises regardless of how such damage or loss may occur. It is expressly agreed and understood that the Lessee, in placing its property in and on the demised premises, does so at its own risk.

10. INSURANCE AND LIABILITY.

The Lessee shall indemnify and save harmless and provide a defense for the Lessor, its agents, employees and officials, from any and all liability, damages, expenses, causes of action, suits, claims or judgments which may accrue against, be charged to, recovered from or sought to be recovered from the Lessor, its agents, employees or officials, by reason of or on account of damage to the property of the Lessor and the property of, injury to or death of any person arising from the Lessee's use and occupancy of the demised premises to the extent that such property damage, personal injury, or death is caused by the acts or omissions of the Lessee, its agents, employees, representatives or invitees.

11. ASSIGNMENT OF LEASE.

The Lessee shall not assign this Lease or sublet the demised premises or any portion thereof without the prior written consent of the Lessor.

12. NOTICE.

Any notice required under this Lease to the Lessor shall be by ordinary mail, addressed to the City Manager for the City of Lynchburg, City Hall Building, P. O. Box 60, Lynchburg, Virginia 24505. Any notice required under this Lease to the Lessee shall be by ordinary mail, addressed to R. A. Chiappetta, Controller, Griffin Pipe Products Co., 1400 Opus Place, Suite 700, Downers Grove, Illinois 60515.

13. TERMINATION.

The failure of the Lessee to perform any of the terms and conditions herein required and the failure of the Lessee to remedy such default within a period of fifteen (15) days after receipt from the Lessor of written notice to remedy the same, shall be grounds for the immediate termination of this Lease without further notice to the Lessee. No waiver of default by the Lessee of the terms, covenants or conditions hereof to the performed, kept and observed by the Lessee shall be construed to be or shall act as a waiver of any subsequent default of any of the terms, covenants and conditions herein contained to be performed, kept and observed by the Lessee.

This Agreement of Lease, when executed by the parties hereto, constitutes a final and entire agreement between the parties and they shall not be bound by any terms, conditions, statements or representations, oral or otherwise, not herein contained. This Lease may be modified or amended from time to time by written agreement executed after the date hereof and signed by all the parties hereto. Such written notification or amendments shall be attached to and become a part of this Agreement.

14. CANCELLATION OF PRIOR LEASE

Upon execution of this Agreement by the parties hereto, it is agreed that the previous Agreement of Lease dated January 14, 1983, between the City and Amsted shall be cancelled without any premium or penalty to the Lessee and without the execution of any further documentation by the parties, provided however, the Lessee shall still be obligated to perform its obligations under paragraph 12.

Insurance and Liability, of the January 14, 1983 Agreement for all claims arising during the term of such Agreement.

This Agreement is executed in triplicate.

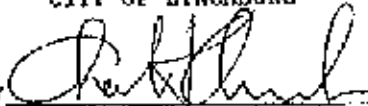
IN TESTIMONY WHEREOF, the City of Lynchburg has caused its name to be hereunto subscribed by Charles F. Church its City Manager, and its seal to be hereunto affixed and attested by Patricia W. Kost, its Clerk of Council, and Amsted Industries Incorporated has caused its name to be hereunto subscribed by

T. C. Fitzgerald, its President,  
and attested by R. A. Chiappetta, its  
Controller.




\_\_\_\_\_, all on the date and  
year first above written.

CITY OF LYNCHBURG

BY   
Charles F. Church, City Manager

SEAL:


ATTEST:

  
Patricia W. Kost, Clerk of Council

GRIFFIN PIPE PRODUCTS CO., Division of  
AMSTED INDUSTRIES INCORPORATED

BY   
Its President

ATTEST:

  
Its Secretary

